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# Supreme Court of the United States

OCTOBER TERM—1940.

No. 455.

HENRY J. RIPPERGER, as Receiver of UNITED  
STATES ELECTRIC POWER CORPORATION,  
*Petitioner,*

*vs.*

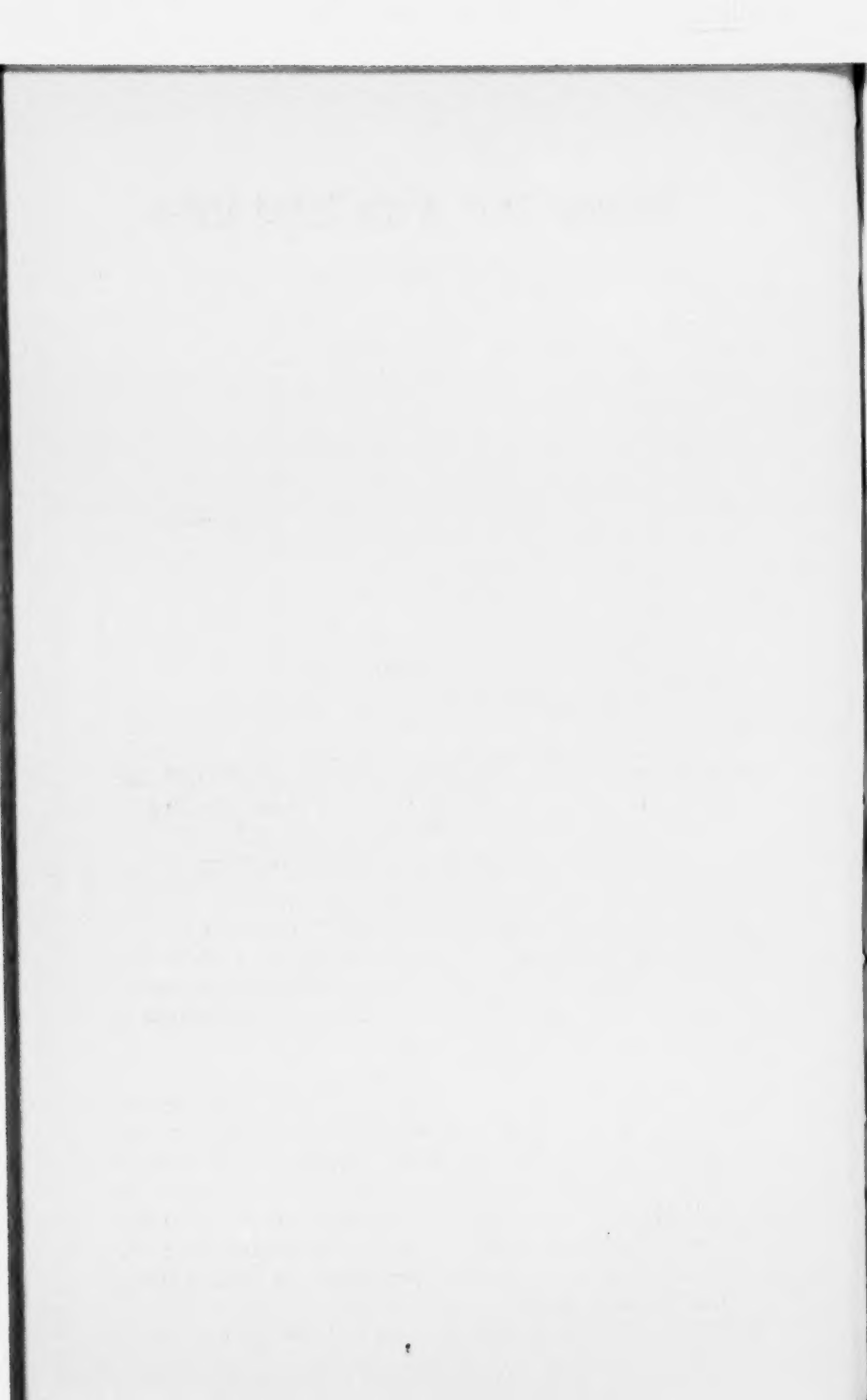
A. C. ALLYN & CO., INC., and FIRST BOSTON  
CORPORATION,  
*Respondents,*

SCHRODER-ROCKEFELLER & CO., INC.,  
*Defendant.*

REPLY BRIEF OF PETITIONER IN SUPPORT OF  
PETITION FOR WRIT OF CERTIORARI TO THE  
UNITED STATES CIRCUIT COURT OF  
APPEALS FOR THE SECOND CIRCUIT.

JACOB K. JAVITS and  
PERCIVAL E. JACKSON,  
*Counsel for Henry J. Ripperger,*  
*Petitioner.*

October, 1940.



# Supreme Court of the United States

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HENRY J. RIPPERGER, as Receiver of  
UNITED STATES ELECTRIC POWER COR-  
PORATION,

Petitioner,

VS.

A. C. ALLYN & Co., INC., and FIRST  
BOSTON CORPORATION,

Respondents,

SCHRODER-ROCKEFELLER & Co., INC.,  
Defendant.

No. 455.

## REPLY BRIEF OF PETITIONER IN SUPPORT OF PETITION FOR WRIT OF CERTIORARI TO THE UNITED STATES CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT.

We believe the petition and the respondents' briefs fairly present the issues on this petition for a writ. But we must except from this a footnote contained on page 3 of the brief of respondent First Boston Corporation in which it is stated:

"Subsequently, and prior to the petition herein, the petitioner served an amended complaint in this action against the defendant Schroder-Rockefeller & Co., Inc., in which the respondents are not named as defendants. It would thus appear that the respondents have been dropped from the action, with the result that the question presented on this petition has become moot."

We address ourselves to this. The District Court, at the same time it dismissed the complaint for lack of jurisdiction as against the respondents herein, dismissed the complaint as to defendant Schroder-Rockefeller & Co., Inc., with leave to amend. At the time it became necessary to file the amended complaint against Schroder-Rockefeller & Co., Inc., the Circuit Court of Appeals had affirmed the order of the District Court dismissing the complaint as to these respondents. As of that time these respondents were no longer parties to the complaint. No allegations concerning them would have been proper and their inclusion as defendants would have been in the face of the mandate of the Circuit Court. Necessarily they were no longer parties unless this Court granted a writ of certiorari and reversed the orders below. *Sutherlin v. Underwriters' Agency*, 53 Ga. 442; *McGaughey v. Latham*, 63 Ga. 71. To say under such circumstances that because respondents were not named in the amended complaint, they have been dropped and the question presented in the petition is moot, is to attempt to becloud the true issues with a conclusion that respondent knows is contrary to the facts.

Respectfully submitted,

JACOB K. JAVITS and  
PERCIVAL E. JACKSON,  
*Counsel for Henry J. Ripperger,*  
*Petitioner.*

October, 1940.

